

JUDICIAL NOMINATING PROCESS AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill amends provisions related to the judicial nominating process.

Highlighted Provisions:

This bill:

- repeals the authority of the Commission on Criminal and Juvenile Justice to make rules related to evaluation criteria for the selection of judicial nominees; ~~H→~~ [and]

- addresses evaluation criteria for the selection of judicial nominees; and ~~←H~~

- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:****78A-10-103**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 7

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **78A-10-103** is amended to read:**78A-10-103. Procedures governing meetings of judicial nominating commissions.**

(1) The Commission on Criminal and Juvenile Justice shall:

(a) in consultation with the Judicial Council, enact rules establishing procedures



governing the meetings of the judicial nominating commissions in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) ensure that those procedures include:

(i) a minimum recruitment period of at least 30 days but not more than 90 days, unless fewer than nine applications are received for a judicial vacancy, in which case the recruitment period may be extended up to 30 days;

(ii) standards for maintaining the confidentiality of the applications and related documents;

(iii) standards governing the release of applicant names before nomination;

(iv) standards for destroying the records of the names of applicants, applications, and related documents upon completion of the nominating process;

(v) an opportunity for public comment concerning the nominating process, qualifications for judicial office, and individual applicants;

~~[(vi) evaluation criteria for the selection of judicial nominees;]~~

~~[(vii)]~~ (vi) procedures for taking summary minutes at nominating commission meetings;

~~[(viii)]~~ (vii) procedures for simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel;

~~[(ix)]~~ (viii) standards governing a nominating commissioner's disqualification and inability to serve; and

~~[(x)]~~ (ix) procedures that require the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.

(2) ~~§→~~ (a) ~~←§~~ In determining which of the applicants are the most qualified, the nominating

commissions shall determine by a majority vote of the commissioners present which of the

applicants best possess the ~~§→~~ [ability, temperament, training, and experience] **legal knowledge**

and ability, judicial temperament, training, professional experience, integrity, impartiality,

work ethic, financial responsibility, public service, and ability to perform the work of a

judge, ~~←§~~ that qualifies them

for the office.

~~§→~~ **(b) For diversity on the bench, when deciding among applicants whose qualifications**

appear in all other respects to be equal, it is relevant to consider the background and

experience of the applicants in relation to the current composition of the bench for which ~~☼~~

54d **the appointment is being made.** ←§

55 (3) (a) Except as provided under Subsection (3)(b):

56 (i) the appellate court nominating commission shall certify to the governor a list of the
57 seven most qualified applicants per vacancy; and

58 (ii) trial court nominating commissions shall certify to the governor a list of the five